Claims 10-13 stand rejected under 35 U.S.C. § 101 as the invention is believed by the Examiner to be directed to non-statutory subject matter. As to the amended claims, Applicant believes that this rejection is no longer applicable and respectfully requests the withdrawal thereof. Claim 10 has been amended to constitute a "method" for providing a unique indivisible financial package contract. As such, Applicant respectfully requests the withdrawal of the 35 U.S.C. 101 rejection with respect to Claims 10-13.

Claims 1-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shepherd* U.S. Patent No. 5,970,479, in view of article the Examiner has provided referred to as the "Strong" reference. This rejection is respectfully traversed with respect to the amended claims.

Applicant's present inventive concept, as defined by the amended claims, is directed toward a contract exchange having associated therewith a clearing house. The features and functions of the invention as defined by the amended claims is directed toward a trading system and a method for trading, which all involve a contract exchange through the use of a clearing house which is electronically linked to the contract exchange. In general, there will be provided a cash depositing facility and an automated real time screen trading system operated by the investor to interface with the central clearing house computer. The operation of the contract exchange is to create, trade and close contracts, each of which have two parties, a buyer and a seller. These are leveraged contracts and the investors are required to maintain sufficient funds as "assigned funds" that must have a sufficient level for the trading operation. The claims specifically require that the clearing house be able to close all of a given party's contracts when a contract moves against the party while *simultaneously* closing all the contracts held by the counter parties when the assigned funds are zero.

The Examiner has rejected the claim primarily in view of the *Shepherd* patent in combination with *Strong* of reference. The Examiner has noted, through the taking of official notice, that it is believed the step of simultaneously closing all the contracts held by counter parties when a move is made against a given party's contracts is old and well known in the art.

However, even though there may be an agreement that provides for such, it is not evident from the investment contract provided by the Examiner. Additionally, there is no disclosure made in either of the references, taken singularly or in combination, that suggest that the clearing house would have the option of, when it is unable to dispose of the contracts required in the market, that it is able to close all the parties' contracts at that price, *simultaneously* closing all of the contracts held by the counter parties. The Examiner is making the statement that such contracts exist to allow for such to occur, that this must be old and well known in the art. However, the Examiner has not shown a transactional method or a system that provides for such a mechanism.

It can be seen that in line 11 of Example 11, there is a move of the contract price from \$93.03 to \$97.972. This results in a loss to that party of slightly less than \$2,000.00, the assigned funds that are at risk at that moment. The loss in line 12 is \$1,901.504 which triggers the clearing house to close that party out, *i.e.*, sell their contract on the market. However, pursuant to an agreement with the other party, their contracts are closed out also. This is illustrated in Example 12. It can be seen in Example 12, line 11, that the contract price is \$93.03 and that they have twenty-two contracts. When the counter party, that associated with the short contract, is closed out, it automatically requires the long contract party to be closed out, as indicated by line 12, wherein the contracts are reduced to zero and their assigned funds actually go up. Interesting enough, had they stayed in the market at this point, and the market continued to move up, they would have benefitted. However, since they had a previous agreement with the party for the short contract, this required them to be closed out. Normally, they would not have been closed out and would have remained in the market. By requiring this arrangement between two parties and the automatic closing out of *both party's contracts*, this prevents the short contract party from actually remaining in the market and losing more than their assigned risk funds. It can be seen in Example 11 that the original minimum required assigned funds were \$2,000.00, *i.e.*, the amount at risk, and that they lost no more than this amount of money. This is important, as noted in the specification, since these are geared contracts and, with a large gearing ratio, one party can lose a great deal of money if they remain in the market. Since there are two parties in a contract, this does require the other

party to be closed out at the same time. None of the references show this particular step that requires that both parties be closed out at the same time.

In view of the above arguments, Applicant believes that neither *Shepherd* nor *Strong*, taken singularly or in combination, under Applicant's present inventive concept, as defined by the amended claims, obvious or unpatentable. Therefore, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103 rejection with respect to Claims 1-9.

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/LAUS-24,408 of HOWISON, CHAUZA, THOMA, HANDLEY & ARNOTT, L.L.P.

Respectfully submitted,
HOWISON, CHAUZA, THOMA, HANDLEY & ARNOTT, L.L.P
Attorneys for Applicant

Gregory M. Howison
Registration No. 30,646

GMH/keb
P.O. Box 741715
Dallas, Texas 75374-1715
972/479-0462
April 17, 2001

APPENDIX A
CLAIMS SHOWN WITH CHANGES

1. (Twice Amended) A [contract exchange] system for effecting a contract exchange between two parties, a buyer and a seller, comprising:

[a central clearing house] a clearing house computer;

a cash depositing facility comprising a computer based cash management fund, electronically linked to [the] said central clearing house computer; and

an automated real time screen trading system operated by investors, which include the buyer and the seller, using personal computers linked by telephone lines to [the] said central clearing house computer; wherein

the contract exchange is operable to create[s], trade[s] and close[s] indivisible financial package contracts each of which have two parties, a buyer and a seller, who are the beneficial owners of the proceeds of a binding obligation requiring a cash settlement based on a settlement price of a specific quantity of a specified type of product at an agreed price, place and time;

the price of the contracts [is] being determined by a market;

the contracts are leveraged and investors must make sufficient funds available to a trading account from a depositing facility account to cover the proportion of the value of a contract, as determined by the leveraging ratio, being permitted to buy or sell, which sufficient funds are assigned funds;

as the price moves in the market, the parties to contracts gain or lose the entire changed value of the contracts they hold;

either the buyer or the seller makes an incremental profit after each price movement and the counter party makes an incremental loss;

the credit resulting from said incremental profit or loss is immediately transferred from the trading account of the party making the loss to the party making the profit;

[the] said clearing house operable to hold[s] options on all the contracts and is able to exercise [its] option rights it holds to dispose of some or all of a party's contracts in the market if that party's trading, or assigned funds became insufficient to cover the proportion of the value of

the contracts held, as determined by the leveraging ratio;

should [the] said clearing house be unable to dispose of the contracts required in the market then, when the contract price moves such that the party's funds fall to zero, [it] said clearing house is able to close all that party's contracts at that price, simultaneously closing all the contracts held by the counter parties;

wherein closing takes place without delay and without the involvement of any other parties.

2. (Amended) [A contract exchange] The system according to Claim 1, wherein when [the] said clearing house is exercising its option rights and attempting to dispose of a party's contracts in the market and a counter party enters the opposite parameter of the market, then the clearing house may close all the party and counter party contracts that are in the market at the same time.

3. (Thrice Amended) [A contract exchange] The system according to claim 1, wherein if a party has sufficient funds to cover the proportion of the value of the contracts held, as determined by the leveraging ratio, at the last sale price but not at the price of one of the market parameters, and a counter party enters the market at that parameter to close a position, [the] said clearing house may close sufficient of the party's contracts with the counter party's contracts so that the party no longer has insufficient funds to cover the proportion of the value of the contracts held at the price of that market parameter.

4. (Amended) [A contract exchange] The system according to Claim 1, wherein to create a new indivisible financial package contract [the] said clearing house enters into a purchase contract with the buyer of the contract, and enters into a sale contract with the seller of that contract at the same price.

5. (Amended) [A contract exchange] The system according to Claim 1, wherein [the] said clearing house will automatically reinvest unrealized surplus assigned funds from an

investor's trading account into further contracts.

6. (Twice Amended) A protocol for trading on a contract exchange, which contract exchange provides a place to create and store contracts between parties comprising the steps of:

providing a central clearing house computer;

providing a cash depositing facility comprising a computer based cash management fund electronically linked to the central clearing house computer;

providing an automated real time screen trading system operated by investors, which include the buyer and the seller, using personal computers linked by telephone lines to the central clearing house computer;

creating, trading and closing indivisible financial package contracts each of which have two parties, a buyer and a seller, who are the beneficial owners of the proceeds of a binding obligation requiring a cash settlement based on a settlement price of a specific quantity of a specified type of product at an agreed price, place and time;

determining the price of the contracts by operation of a market;

leveraging the contracts and monitoring the funds each investor has available to ensure each investor has sufficient funds available in a trading account to cover the proportion of the value of a contract, as determined by the leveraging ratio, before an investor is permitted to open contracts to buy or sell, which sufficient funds are assigned funds;

exercising option rights to dispose of some or all of a party's contracts in the market if that party's funds become insufficient to cover the proportion of the value of the contracts held, as determined by the leveraging ratio;

if unable to dispose of the contracts required in the market then, when the contract price moves such that the party's funds fall to zero, closing all that party's contracts at that price, and simultaneously closing all the contracts held by the counter parties;

closing takes place without delay and without the involvement of any other parties.

7. A protocol for trading on a contract exchange according to Claim 6, comprising the further step of: when exercising option rights and attempting to dispose of a party's contracts

in the market and a counter party enters the opposite parameter of the market, closing all the party and counter party contracts that are in the market at the same time.

8. (Twice Amended) A protocol for trading on a contract exchange according to claim 6, comprising the further step of:

if a party has sufficient funds to cover the proportion of the value of the contracts held, as determined by the leveraging ratio, at the last sale price but not at the price of one of the market parameters, and a counter party enters the market at the[at] parameter to close a position, exercising option rights to close sufficient of the party's contracts with the counter party's contracts so that the party no longer has insufficient funds to cover the proportion of the value of the contracts held at the price of that market parameter.

9. A protocol for trading on a contract exchange according to Claim 6 comprising the further step of: as the price moves in the market, requiring the parties to contracts to gain or lose the entire change in value of the contracts they hold so that either the buyer or the seller makes an incremental profit after each price movement and the counter party makes and incremental loss, and immediately transferring the credit from the trading account of the counter party making the loss to the party making the profit.

10. (Twice Amended) A method for providing a unique indivisible financial package contract which is a binding obligation requiring a mandatory cash settlement based on a settlement price of a specific quantity of a specified type of product at an agreed price, place and time;

each contract has two parties, a buyer and a seller, who are the beneficial owners of the proceeds of the binding obligation;

when holding contracts, the price moves as determined by market forces;

the contracts are leveraged and requiring the investors [must] to make sufficient funds available to a trading account from the depositing facility account to cover the proportion of the value of a contract, as determined by the leveraging ratio, before an investor is permitted to open contracts to buy or sell, which sufficient funds are assigned funds;

as the price moves in the market, the parties to contracts gain or lose the entire change of value of the contracts they hold;

either the buyer or the seller makes an incremental profit after each price movement and the counter party makes an incremental loss;

[the credit is] immediately [transferred] transferring the credit to the trading account of the party making the profit from the trading account [if] of the counter party [is] making the loss;

[the] providing a clearing house that is operable to hold[s] options on all the contracts and is able to exercise its option rights to dispose of some or all of a party's contracts in the market if that party's funds became insufficient to cover the proportion of the value of the contracts held, as determined by the leveraging ratio;

should the clearing house be unable to dispose of the contracts required in the market then when the contract price moves such that the party's funds fall to zero, [it] the clearing house [is able to close] closing all that party's contracts and those of the contracts held by the counter parties;

the step of closing [takes] taking place without delay and without involvement of any other parties.

11. (Amended) [A unique indivisible financial package contract according to] The

method of Claim 10, wherein when the clearing house is exercising its option rights and attempting to dispose of a party's contracts in the market and a counter party enters the opposite parameter of the market, then the clearing house may close all the party and counter party contracts that are in the market at that time.

12. (Thrice Amended) [A unique indivisible financial package contract according to] The method of Claim 10, wherein if a party has sufficient funds to cover the proportion of the value of the contracts held, as determined by the leveraging ratio, at the last sale price but not at the price of one of the market parameters, and a counter party enters the market at that parameter to close a position, the clearing house may close sufficient of the party's contracts with the counter party's contracts so that the party no longer has insufficient funds to cover the proportion of the value of the contracts held at the price of that market parameter.

13. (Amended) [A unique indivisible financial package contract according to] The method of Claim 10 wherein in order to create a new indivisible financial package contract the clearing house must enter into a purchase contract with the buyer of the contract, and enter into a sale contract with the seller of that contract at the same price.